

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT PADILLA,

Defendant.

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Cause No. CR 22-634 JB

**UNOPPOSED MOTION FOR CONTINUANCE OF CONTINUANCE OF
HEARING SET FOR JANUARY 23, 2023**

ROBERT PADILLA, Defendant, by and through the undersigned appointed counsel, Ronald Gainor and Marc H. Robert, respectfully moves the Court for a continuance of the hearing set for Thursday, January 23, 2023, and in support of the motion would respectfully show the Court as follows:

1. Counsel for Mr. Padilla filed a motion regarding the conditions of his pretrial confinement [Doc. 53]. The Government responded [Doc. 58] and Mr. Padilla replied [Doc. 59]. The Court set a hearing on that motion for Thursday, January 23, 2023 at 10.30 am [Doc. 59].

2. A member of the undersigned counsel's household tested positive for Covid on Monday, January 16. The undersigned counsel has had fairly close contact with the infected family member before the positive test occurred. The undersigned counsel is uncertain if he is infected; official guidance indicates that a test should be conducted five

days after contact with an infected person, and that a test before then would likely be uninformative. The undersigned counsel does not wish to jeopardize the Court or its staff, Mr. Padilla or any other person present for the hearing. The undersigned counsel does wish to be present in court with Mr. Padilla for the hearing in order that counsel can consult with Mr. Padilla about any factual issues that arise during the hearing, including any testimony taken during the hearing.

3. Co-counsel Ronald Gainor had not planned to attend the hearing; he is preparing for trial in Oklahoma and was not directly involved in the drafting of the motion or the reply.

4. Counsel has requested the preparation of the transcript of a hearing in 19 CR 3113 JB at which a related issue was addressed. As far as the undersigned counsel can tell, that has not yet happened.

5. Counsel is currently addressing an issue with arranging for the attendance of a witness for the hearing, but that remains unresolved at this time. It appears that additional time will be needed to resolve that issue and secure the attendance of the potential witness.

6. Counsel has communicated with Assistant United States Attorney Maria Armijo concerning this motion for continuance. Particularly for health reasons and the possibility that counsel may be infected with Covid, the Government does not oppose this motion.

WHEREFORE, Robert Padilla, Defendant herein, respectfully requests that the Court vacate the hearing set for January 23, 2023 and reset the hearing once the

undersigned counsel has tested negative for Covid, and the other issues discussed above are resolved; and to provide such other and further relief to which the Court may find Mr. Padilla to be justly entitled.

Respectfully submitted,

/s/ Ronald Gainor

Ronald Gainor
Gainor & Donner
10722 Ashford Circle
Highlands Ranch, CO 80126
(720) 201-3036
gainorlaw@gmail.com
Counsel for Defendant Robert
Padilla

/s/ Marc H. Robert

MARC H. ROBERT
P.O. Box 25271
Albuquerque, New Mexico 87102
575.571.7435
m505robert@gmail.com
Counsel for Defendant Robert
Padilla

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January, 2023, I electronically filed the foregoing Motion with the Clerk of Court using the CM/ECF system which will automatically send notification of such filing to all counsel of record.

s/ Marc H. Robert